



Superior Court of California County of Sonoma

Gary Nadler
Presiding Judge

ACCESS, SERVICE, JUSTICE

Arlene D. Junior
Court Executive Officer

CLERK'S NOTICE **March 26, 2019**

To Attorneys and All Interested Parties Invitation to Comment on Proposed Amendments to Local Rules

As required by California Rules of Court, Rule 10.613(g), the Superior Court of California, County of Sonoma hereby distributes for public comment the attached proposal to amend its local rules.

Comments are due by May 10, 2019

The proposed local rules and forms take effect July 1, 2019

The proposed rules and forms may be accessed on the Court's website: www.sonomacourt.org. A hard copy of the proposal is available upon request by contacting Court Administration at (707) 521-6501 or by email request to info@sonomacourt.org. Any individual or organization not having internet access may obtain a printed copy of the proposed rules by mailing a written request to:

Any individual or organization not having internet access may obtain a printed copy of the proposed rules by mailing a written request to:

Court Administration/Proposed Rules Request
Sonoma County Superior Court
600 Administration Drive, Santa Rosa, CA 95403

Comments should be submitted in writing to:

Arlene D. Junior, Court Executive Officer
Sonoma County Superior Court
600 Administration Drive
Santa Rosa, CA 95403



**Superior Court of California
County of Sonoma
Summary of Proposed Amendments to the Local Rules**

~~abcde~~ Deleted text
abcde Revised text
*** Unchanged text

RULE 4 RULES APPLICABLE TO ALL CIVIL CASES

**4.2 ASSIGNMENT TO ONE JUDGE FOR ALL PURPOSES AND CASE MANAGEMENT
CONFERENCE**

- A. In every general civil case, at the time of filing a complaint, by order of the Presiding Judge, the Clerk of the Court will issue a Notice of Assignment of Case to One Judge for All Purposes and Notice of Case Management Conference. The Notice will include the name of the Assigned Judge and the date, time and location of the Case Management Conference. A copy of the Notice must be served with the summons and complaint, and with any cross-complaint.
- B. Tentative Rulings: Three (3) court days preceding each scheduled Case Management Conference calendar, the Assigned Judge or his/her designee will cause to be recorded a tentative ruling for any cases set on the Case Management Conference calendar. The tentative ruling may be obtained by telephoning (707) 521-6881 (tape-recorded message) or on the court's web page at www.sonoma.courts.ca.gov. The tentative ruling will become the ruling of the court at the conference unless any party desiring to be heard so advises the judicial assistant in the Assigned Judge's chambers no later than 48 24 hours before the scheduled conference and also notifies all parties or their attorneys. Appearances will be required or dispensed with by the court as indicated in the tentative rulings. Where appearances are required by the court, or no tentative ruling is indicated on a case, then all principal trial counsel and self-represented parties shall appear at the

conference at the time scheduled in any notice, order to show cause, or as otherwise directed by the court.

(Eff. 1/1/1997; Rev. 1/1/2003, 7/1/2004, 1/1/2014, Repealed 1/1/2016; Eff. 7/1/19)

4.4 ORDERS TO SHOW CAUSE

- A. Each case included by this Rule will be reviewed for compliance with these rules, and orders to show cause may be issued for failure to comply.
- B. Orders to sShow eCause will be scheduled on calendars at such times and places as designated by the Assigned Judge.
- C. In the afternoon two (2) court days preceding the Order to Show Cause hearing, commencing at 2:00 p.m., the Assigned Judge or his/her designee will cause to be recorded a tentative ruling of any case set on the Order to Show Cause calendar. The tentative ruling may be obtained by telephoning (707) 521-6881 (tape recorded message) or at the Web page of the Superior Court: www.sonoma.courts.ca.gov. (Eff. 1/1/1997; Rev. 7/1/2004, 1/1/2016; 7/1/19)

4.9 PRETRIAL MATTERS AND COMMENCEMENT OF TRIAL

A. **Uniform Procedures**

The procedures prescribed in this rule apply uniformly to trials throughout the Civil Division except in expedited jury trials under Code of Civil Procedure section 630.01 et seq., which are governed by California Rules of Court, rules 3.1545–3.1552. Judges may, in the exercise of discretion, order different procedures based on the particular requirements of an individual case.

B. **Trial**

Each case is called for Trial on the Friday as specified by the court in its Notice of Settlement Conference and Trial as served on all parties. Unless otherwise ordered, parties should expect and be prepared to begin the Trial of a case on the first date of trial.

C. **Duty to Meet and Confer**

At least seven court days before trial, all attorneys of record and unrepresented parties must meet and confer in a good faith effort to reach agreement and enter into written stipulations or written joint statements on the matters described in subdivisions D and G of this rule. All such stipulations and statements must be filed, and courtesy copies delivered, at the time and in the manner stated in subdivisions D and G. A stipulation or

joint statement may be filed instead of any submission of an individual party that this rule requires or permits.

D. Pretrial Documents

By 3:30 p.m. on the ~~third~~ sixth court day before Trial, or as otherwise ordered by the court, the parties must file the documents listed below with the Civil Clerk's Office, serve the documents on all parties, and deliver endorsed copies to the chambers of the Assigned Judge the same day.

1. Any proposed voir dire questions which, due to unusual or sensitive circumstances, a party requests the judge to ask prospective jurors.
2. Any proposed jury questionnaire.
3. A joint list, in alphabetical order, of all witnesses to be called, indicating which party intends to call each witness. The list should also note any anticipated issue concerning a witness that might require the court's attention, including but not limited to scheduling constraints, health problems, security precautions, and the need for a translator or interpreter.
4. A joint estimate of the length of the trial.
5. A joint, neutral statement of the case to be read to the jury.
6. All motions in limine. Note that, any written opposition to a motion in limine must be filed with the Civil Clerk's Office, with an endorsed filed copy delivered to the Assigned Judge, by 3:30 p.m. ~~one~~ three court days before Trial.
7. Identification by each party of all deposition testimony that the party intends to offer in evidence on the ground that the witness is unavailable to testify at trial, designated by witness, date or volume, and pages and lines.
8. A list of all requested California Civil Jury Instructions (CACI) by number, in numerical order, with titles.
9. A list of all proposed CACI jury instructions and special jury instructions, with all proposed wording.
10. All proposed verdict forms.
- 9 11. Signed copies of the Trial Orders of the Court, containing those provisions to which the parties have stipulated.

E. Exhibits to Be Used in Opening Statement and/or Trial

On the day that motions in limine are heard, prior to that hearing, each party must show all other parties all electronic presentations, demonstrative exhibits, charts, diagrams,

photographs, enlargements, and all other tangible things that the party intends to use in the party's opening statement and/or during trial. Any party who objects to any such material must make the objection at the hearing of the motions in limine, and the judge will rule on all such objections presented.

F. Trial Briefs

The court finds trial briefs to be very helpful and encourages their submission. Any trial brief must be filed with the Civil Clerk's Office, and an endorsed filed copy delivered to the Assigned Judge, by 12:00 3:30 p.m. ~~one~~ six court days before Trial. This does not preclude supplemental briefs on specific issues that arise during the trial.

G. Jury Instructions and Verdict Forms

1. In every jury trial, ~~before the first witness is sworn,~~ six court days prior to the first day of trial, each party must deliver to the judge, and serve upon all other parties, all proposed jury instructions on all applicable law disclosed by the pleadings, and all proposed verdict forms.
2. Before closing argument begins, each party must deliver to the judge and serve upon all other parties ~~forms of verdict and~~ any additional proposed jury instructions on questions of law arising from the evidence that were not disclosed by the pleadings.
3. Each proposed jury instructions must be printed in black ink on a separate piece of paper. Proposed instructions must not identify the requesting party or any party or counsel in the case. The jury instructions must be assembled in a packet with a face sheet that lists all requested instructions and the requesting parties.

H. Service of Trial Documents

All documents authorized by this rule that a party files with or otherwise submits to the court must be served by a means that is reasonably calculated to assure delivery to all other parties by the earlier of (1) the time when delivery to the court is due under this rule, or (2) the time when the document is actually delivered to the court. Such means include, but are not limited to, personal delivery, facsimile transmission (fax), email, and other means of electronic transmission that are no slower than fax. (Eff. 1/1/1997; Rev. 7/1/2004, 1/1/2012, 1/1/2014, 1/1/2016; 1/1/2018; 7/1/18; 7/1/19)

RULE 5 RULES APPLICABLE TO CIVIL LAW AND MOTION PROCEEDINGS

5.1 SCHEDULING

- A. Civil law and motion matters will be heard at such times and places as designated by the Assigned Judge. The calendar will include all civil law and motion matters except DMV Writs of Mandate, Unlawful Detainer matters (see these rules, Rule 2.2D), Orders of Examination (see these rules, Rule ~~5-3~~ 5.2), and Orders to Show Cause for Injunctions Prohibiting Harassment, which will be heard in other courtrooms as designated by the Presiding and/or Supervising Judge.

- B.** All civil law and motion matters will be scheduled for a hearing date, time, and location at the Clerk's Office upon filing all moving papers.
- C.** No law and motion matter shall be entitled to a preferential setting, concurrent setting with another motion or order shortening time, except as may otherwise be provided by statute, California Rules of Court, or for good cause shown and approved in advance by the court. The fact that a case is designated as included in the Trial Court Delay Reduction Act (Government Code §68600, et seq.) is a factor for the court to consider in its discretion, among other facts, in determining whether good cause is shown in any application for order shortening time. Motions for summary judgment and/or summary adjudication which must be heard, pursuant to Code of Civil Procedure §437c(a), may, for good cause when the court's calendars are full, be set for hearing by the court upon ex parte application and order.

The moving party shall, on the date of filing, hand-deliver to the Assigned Judge a courtesy copy, which need not be file-endorsed, of any motion filed. The responding party shall, on the date of filing, hand-deliver to the Assigned Judge a courtesy copy, which need not be file-endorsed, of all opposition papers. Finally, the moving party shall, on the date of filing, hand-deliver to the Assigned Judge a courtesy copy, which need not be file-endorsed, of all reply papers.

1. If any matter scheduled on the law and motion calendar is resolved, dismissed, settled or becomes moot for any reason, the moving party shall immediately notify the judicial assistant for the Assigned Judge if the motion is to be dropped from the law and motion calendar. Said notification may be made by telephone, followed by a letter of confirmation. (Eff. 1/1/1997; Rev. 1/1/2006, 7/1/2007, 7/1/2008, 7/1/2014; 7/1/18)
2. When a party is required to provide an appendix of authorities other than California cases, statutes, constitutional provisions, or state or local rules pursuant to California Rules of Court, rule 3.1113(i)(1), the appendix shall be lodged in the courtroom of the Assigned Judge, and not in the clerk's office. (Eff. 1/1/2013; 7/1/18; 7/1/19)

RULE 6 RULES APPLICABLE TO PROBATE PROCEEDINGS

6.2 CALENDAR AND PROCEDURAL MATTERS

The current Probate, Conservatorship (including Limited Conservatorships), and Guardianship calendars are posted on the court's website. (Click on the link to "Current Probate Calendars" on the probate page).

A. General Guidelines

1. General Probate Matters One department of the Superior Court shall be designated by the Presiding Judge of the Superior Court to hear general probate matters. General probate matters will be calendared and heard at such times and places as shall be designated by the Supervising Judge of the Civil Division (the "Regular Probate Calendar").
2. Probate Calendar Day on Judicial Holiday. When the date for the Regular Probate Calendar is a court holiday the calendar will be heard on a date and time as designated by the Supervising Judge of the Civil Division.

B. Calendaring Guidelines

Calendaring information on the Regular Probate, Guardianship and Lanterman-Petris-Short (LPS) calendars may be found on the Court's website, at <http://sonoma.courts.ca.gov/online-services/calendars/probate>.

Sonoma Developmental Center ("SDC") Calendar:
Called at the Sonoma Developmental Center, 15000 Arnold Drive, Eldridge, CA 95431.

1. Regular Probate Calendar Matters

Except as otherwise indicated in these rules, all probate petitions concerning the following are to be calendared for hearing on the Regular Probate Calendar:

- a. dDecedent's estates,
- b. tTrusts,
- c. eConservatorships of the person and of the estate (other than limited conservatorships unless there is an estate involved and "LPS conservatorships"),
- d. gGuardianships of the estate. Petitions for the appointment of a guardian of the estate only, and all petitions concerning the administration of an existing guardianship of the estate, are to be calendared for hearing on the Regular Probate Calendar.
- e. Special Needs Trusts. All petitions for an order approving a Special Needs Trust or for an order directing payment or delivery of any property or funds to a Special Needs Trust, pursuant to Probate Code §§ 3602, 3611, or other authority, shall be scheduled for hearing on the Regular Probate Calendar. When such a petition is a first-filed paper or arises out of a civil matter not pending before the Probate Court, the petition shall be filed with the Probate Clerk as a new case and given a new case number.

2. Petitions for Guardianship of the Person

Petitions for the appointment of the guardian of the person are to be calendared for hearing on the Guardianship Calendar.

3. Limited Conservatorships

- a. Petitions for the appointment of a limited conservator of the person or of the person and estate of an adult alleged to be developmentally disabled who is in placement at the Sonoma Developmental Center (SDC) are to be calendared for hearing on the SDC Calendar, to be heard at such times and places as shall be designated by the Supervising Judge of the Civil Division.
- b. All other petitions for the appointment of a limited conservator of the person or limited conservator of the person and the estate for an adult alleged to be developmentally disabled are to be calendared for hearing on the LPS Calendar.

4. LPS Calendar

All matters involving proceedings under the Lanterman-Petris-Short Act are to be calendared on the LPS Calendar.

C. Filing, Hearing, and Continuance Procedures

All petitions and supporting documents in matters to be heard on the probate calendar shall be filed with the Probate Clerk, at least twenty-two (22) days prior to the hearing, allowing sufficient time for notice and publication as required by law.

1. RULE 6.2(C)(1) Procedure for Obtaining a Hearing Date

In conservatorship matters, petitioners shall comply with Local Rule 6.4 regarding contacting the Office of the Probate Court Investigator to obtain a hearing date. In all other matters, petitioners will be assigned a hearing date from the probate clerk at the time of filing. For contact information for the Probate Clerk's office and the Probate Court Investigator see Rule 6.1.B, above.

2. Procedure for Obtaining a Continuance

a. Modification of Stipulated Continuance Form

Stipulated continuances for any matter set on the regular Probate calendar will be allowed a maximum of two (2) times per pending petition or application for relief and for not more ~~an~~ than a total of ~~6~~ six (6) months' total time from the date the matter was first set for hearing. ~~Thereafter, a court appearance is required to request a continuance. After two continuances have been granted, the party(ies) requesting a continuance shall show good cause. All requests after the maximum two (2) will be delivered to the judicial assistant for the assigned~~

~~judicial officer to review.~~ Subsequent requests for a continuance may be made by any method allowed by law.

To request a one of the two stipulated continuances, a NOTICE OF STIPULATED CONTINUANCE (PROBATE) (Sonoma County Local Form 018) executed by all parties or their attorneys and the continuance fee must be submitted to the probate clerk no later than noon (12:00 p.m.) three (3) court days prior to the hearing date. Signatures transmitted by facsimile transmission (fax) are acceptable. The probate clerk will continue the hearing to the date selected by the parties if available based on calendar availability. If the selected date is not available, the probate clerk will continue the matter to the next available probate calendar based on calendar availability.

b. Continuance Requested at Hearing:

Requests for continuances may be made at the hearing, and may be granted in the discretion of the Court.

c. Limitation on Continuances:

Normally no more than three continuances will be allowed before the matter is dismissed without prejudice.

d. Continuances for Probate Matters Assigned to Short Cause or Civil Master Calendar:

Any matter assigned to or set on the Short Cause Calendar or the Civil Master Trial Calendar shall be governed by the California Rules of Court and Superior Court Rules applicable to those calendars.

D. Submission of Proposed Orders and Other Pleadings Before Hearing Date

1. Orders

Proposed orders shall be submitted to the Probate Clerk at the time of filing the petition. If a self-addressed, pre-paid envelope is provided when the order is submitted, the clerk will return a file endorsed copy by mail; or if requested in writing, the clerk will deliver a file endorsed copy to an Attorney Box at the Civil and Family Courthouse, 3055 Cleveland Avenue, Santa Rosa.

2. Supporting Papers

Supporting papers shall be filed at the time of filing the Petition, except as otherwise provided in the Probate Code or these Local Rules.

3. Proofs of Service

Proofs of Service for the initial petition shall be filed with the Clerk at least five (5) days prior to the day of hearing. Any other Proofs of Service shall be filed with the Clerk contemporaneously with the papers to which they pertain.

4. Proofs of Publication

Proofs of Publication shall be filed with the Clerk at least five (5) days prior to the day of hearing.

5. Copies Required for Court Staff

Copies of all accountings filed are required to be served on the Office of the Probate Court Investigator if within a conservatorship, guardianship or Court created trust matter), or the Probate Examiner (if within a decedent's estate or trust matter), as applicable. Drop boxes for the Office of the Court Investigator and the Probate Examiner is available at the Probate Clerk's Office. Another drop box for the Office of the Probate Court Investigator only is available at the Civil Clerk's Office.

E. Supplemental or Opposition Papers

In order for supplemental or opposition papers to be considered by the Court prior to the hearing, the documents must be first filed with the Court, and served as follows:

1. Guardianships of the Person

Copies of all supplemental or opposition papers must be served on the Probate Court Investigator at least five (5) court days before the hearing, with the scheduled hearing date noted on the face sheet.

2. All Conservatorships and Guardianships of the Estate Only

Copies of all supplemental or opposition papers must be served on the Office of the Probate Court Investigator at least five (5) court days before the hearing, with the scheduled hearing date noted on the face sheet.

3. Decedent's Estates and Trust Matters

Copies of all supplemental or opposition papers must be served on the Probate Court Examiner at least five (5) court days before the hearing, with the scheduled hearing date noted on the face sheet.

F. Hearings and Tentative Rulings

1. Notices of Hearing

Notices of hearing on cases scheduled for hearing on the Regular Probate Calendar shall indicate that the time for the commencement of the calendar.

2. Tentative Rulings – Regular Probate Calendar

During the court day preceding each weekly Regular Probate Calendar, by 2:00 p.m., the Court will ~~issue~~ ~~cause to be recorded~~ a tentative ruling for each matter noticed on such calendar. The tentative ruling may be obtained by telephoning (707) 521-6730 between the hours of 2:00 p.m. and 4:00 p.m. on the day before the hearing (707) 521-6881 (chose Option #1) or online on the Court's website at www.sonoma.courts.ca.gov (Click on the "Online Services" tab on the home page, select "Tentative Rulings" in the drop-down menu, and the click on the link to "Probate"). The Tentative Rulings will also be posted at the probate department.

- a. Parties who do not object to the tentative ruling need not appear at the hearing, unless the ruling requires appearances or another party has requested a hearing pursuant to the procedure in subdivision (b) below.
- b. Any interested party who wishes to be heard in relation to the tentative ruling must call 707-521-6893 and leave a brief message that includes the name and telephone number of the party calling and the case name and number. Any interested party who wishes to be heard in opposition to a petition must also notify the attorneys for all represented parties as well as all unrepresented parties of their intent to appear. Notifications to the court and all attorneys and unrepresented parties must be completed no later than 4:00 p.m. on the court day immediately preceding the day of the hearing.
- c. Unless notification has been given as provided in b, above, the tentative rulings shall become the rulings of the Court, on the day of the hearing. Signed orders on approved matters are generally available at the Probate Clerk's office, after 2:30 p.m., the day of the hearing.

3. Tentative Rulings - Guardianship Calendar

During the court day preceding each weekly guardianship calendar, commencing at 11:00 a.m., or earlier if feasible, the Court will cause to be recorded a tentative ruling for each matter noticed on such calendar. The tentative ruling may be obtained by telephoning (707) 521-6881 (Opt. #1) or by accessing the Court's website at www.sonoma.courts.ca.gov and selecting the option for Tentative Rulings. The tentative rulings will also be posted at the guardianship department.

- a. Parties who do not object to the tentative ruling need not appear at the hearing, unless the ruling requires appearances or another party has requested a hearing pursuant to the procedure in subdivision (b), below.
- b. Any interested party who wishes to be heard in relation to /the tentative ruling must call 707-521-6893 and leave a brief message that includes the name and telephone number of the party calling and the case name and number. Any interested party who wishes to be heard in opposition to a petition must also notify the attorneys for all represented parties as well as all unrepresented parties of their intent to appear. Notifications to the court and all attorneys and

unrepresented parties must be completed no later than 4:00 p.m. on the court day immediately preceding the day of the hearing.

- c. Unless notification has been given as provided in b, above, the tentative rulings shall become the rulings of the court when announced by the courtroom clerk at 9:15a.m. on the day of the hearing.

4. Appearances

No appearances are required for pre-approved matters unless an interested person has asked to be heard in response to the tentative ruling and has given the required notice of such a request.

G. Contested Matters

1. Written Objections

- a. Before the Court will conduct a hearing in any contested proceeding, the party(ies) opposing or objecting to a petition, accounting or other matter scheduled for hearing shall file verified, written objections specifying the grounds for such objection or opposition. If oral objections are made at a hearing, the court may continue the matter in order to have the objections submitted in writing.
- b. Interested persons who oppose the granting of a petition for appointment of a guardian are encouraged to use Sonoma County form PR-9 (Objection(s) to Appointment of Guardian of the Person) to file objections.

2. Meet and Confer Requirement

In the event of any contest or objection to any petition on the probate calendar, the parties or his or her respective attorneys shall make a reasonable and good faith attempt to informally resolve the controversy at a face-to-face conference, if possible, otherwise by telephone conference, before any hearing of the contested petition. If such resolution is not possible, then each party shall file a Statement of Issues as provided in 3, below.

3. Statement of Issues or Settlement

At least five (5) court days before the hearing, each party shall either (1) notify the Probate Clerk in the Superior Court Clerk's office or the probate department that the controversy has been resolved; or (2) file and serve the Statement of Issues. Each Statement of Issues must:

- a. Indicate that the parties or his or her respective attorneys have met face-to-face or, if that is not possible, have participated in a telephone conference to discuss the issues in dispute,

- b. identify the substantial issues in the controversy, with references to any supporting evidence and/or legal authority,
- c. include each party's opinion of any barriers to settlement,
- d. Provide an estimate of the time requirement for the hearing or resolution,
- e. Include each party's opinion as to the appropriate method for resolving the controversy (i.e., mediation, arbitration, short cause trial, etc.).

4. Contested Matters on Probate Calendar

When the hearing on a contested matter is estimated to be 20 minutes or less, the hearing will be held before the Probate Judge on the Regular Probate Calendar if time permits. Otherwise, the matter will be set for an extended hearing.

5. Transfer to Trial Calendar

If the hearing on a contested matter is estimated to exceed twenty (20) minutes or a jury trial is demanded, and counsel appear at the probate calendar, the matter may be transferred to the short cause calendar or may be assigned directly to one judge for all purposes.

H. Ex Parte Matters

1. Presentation of Emergency Probate Petitions

If a party has reason to believe that orders are urgently needed to prevent irreparable harm to person or property, a petition may be filed for consideration on the probate ex-parte calendar. The petition must be accompanied by a declaration setting forth the facts upon which the petitioner is basing the allegation. The petition must be accompanied by a declaration identifying the persons entitled to notice under the applicable sections of the Probate Code or these rules, which includes and either an explanation of notice provided or the facts on which the petitioner request an order dispensing with notice. Filing fees must be paid and a case number assigned before a party presents an ex-parte application.

A proposed order must be submitted with the moving papers.

2. Contents of Petition

A petition for an ex parte order must be verified and must contain sufficient evidentiary facts to justify issuing the order. Conclusions or statements of ultimate facts are not sufficient, and a foundation should be shown for the petitioner's personal knowledge.

3. Special Notice Allegation

All petitions for ex parte orders must contain a statement on requests for special notices. The statement shall either recite that no request for special notice is in effect or shall list the parties requesting special notice and attach the specific waivers of notice by such parties or proof of service on such parties.

4. Notice

Notice shall be provided in accordance with the California Rules of Court applicable to civil Ex-Parte matters. Notice to the Probate Court Investigator shall be given in all conservatorship and guardianship matters.

5. Notice to Probate Court Investigator [Repealed]
(Subd (5) repealed effective January 1, 2017.)

6. Presentation of Ex-Parte Papers

Except where a Judicial Council or a local form is used that includes an order, a petition for an ex-parte order must be accompanied by a separate order. It is not sufficient for such order to provide merely that the application has been granted, or that the sale of property or security set forth in the petition has been approved. The order must specify all relief ordered by the court.

Applications for ex-parte relief may be filed ~~the day before the regular probate calendar is scheduled~~ Tuesday or Friday. If Tuesday is a holiday, the application may be filed Monday; if Friday is a holiday, the application may be filed Thursday. The application and all supporting documents must be filed with the Sonoma County Court Clerk's office, Probate Division, before 10:00 a.m. to be considered. If deemed necessary by the Court, the ex-parte application ~~will~~ may be set for hearing ~~the following day~~ on the next regular probate calendar.

Papers in opposition to an ex-parte application must also be filed with the Sonoma County Court Clerk's office, Probate Division, by 10:00 a.m. on the date the ex-parte application is filed.

If you have any questions or concerns, please contact the Probate Clerk's Office at 707-521-6650.

RULE 9 RULES APPLICABLE TO FAMILY LAW PROCEEDINGS

9.14 CHILD CUSTODY

A. Referral to the Online Orientation Program and Family Court Services

All Requests for Orders regarding custody or parenting plan issues must be filed and served with local form FL-017, entitled "Custody and Visitation Orders." Appointment dates for child custody recommending counseling (hereafter referred to as recommending counseling) appointments may be obtained through the Clerk's Office on the date of filing. No contested child custody or parental contact cases, including requests for review dates and requests for modifications, will be heard by the court unless and until the parties have been provided

appropriate opportunity to attend an orientation class and a recommending counseling appointment.

All parties are to complete the online orientation program and attend the recommending counseling appointment as directed on the order entitled "Custody and Visitation Orders" (Sonoma County form FL-017). The online orientation program cannot be waived and is to be completed before the recommending counseling appointment at Family Court Services.

1. Documents to be Delivered and Reviewed by the Child Custody

Recommending Counselor

All relevant materials to be considered by Family Court Services must be delivered to the opposing party in a timely manner as follows:

a. Moving documents must be filed and personally delivered, faxed or e-mailed no less than seven (7) court days prior to the recommending counseling appointment. If delivery is by US Mail, documents must be mailed to opposing party seven (7) court days plus five (5) calendar days prior to the recommending counseling date. Proof of delivery is required. Responding documents must be filed and personally delivered, faxed or e-mailed no less than two (2) court days prior to the recommending counseling appointment. If delivery is by US Mail, documents must be mailed to opposing party two (2) court days plus five (5) calendar days prior to the recommending counseling date.

b. For review hearings, documents must be personally delivered, faxed or e-mailed ten (10) court days in advance of the FCS appointment. If sent by mail, then documents must be mailed five (5) additional calendar days in advance. The parties are not permitted to provide FCS with any documents, including replies, after the time set forth in this paragraph except for compliance certificates and documents as set forth in subparagraph "c" of this Rule 9.14. This does not affect either party's right to timely file any appropriate pleadings with the court before the review hearing itself. Documents filed or delivered after the time set forth in this paragraph will not be reviewed by the FCS child custody recommending counselor. Courtesy copies are not required.

c. No court documents shall be served or exchanged at Family Court Services. Videotapes, recordings, electronic communication and photos shall not be brought to the child custody recommending counseling session.

Only the following types of documents showing compliance with prior court orders may be presented at Family Court Services at the time of the appointment without being previously filed and served if they were not available to be served and delivered in compliance with paragraph 9.1 4, A1.a: Counseling, education, self- help programs, drug test results, law

enforcement records, supervised visitation, day care, anger management/domestic violence/ psychological/substance abuse assessments and medical records. Other necessary documents may also be presented if they are relevant and unavailable to be served and delivered within the time frame set forth in paragraph 9.14.A1.a. Copies shall be provided to the other party before or at the Family Court Services appointment.

The court may impose a financial penalty on a party or attorney who failed to provide documents to the opposing party in a timely manner.

When the parties have reached an agreement concerning any issues, Family Court Services shall report any agreement to the court in writing.

If the parties fail to reach any agreements, Family Court Services shall provide the court with its recommendation as to custody, parenting plans and restraining orders pending further proceedings, pursuant to Family Code section 3183. Such recommendations shall be in writing and may include referral for an investigation and/or a child custody evaluation and report pursuant to Evidence Code section 730. The court may consider the Family Court Services recommendation when making any custody or parenting plan orders.

Copies of all reports to the court regarding Family Court Services agreements and/or the child custody recommending counselor's recommendations will be delivered to the parties and/or their attorneys as soon as practical prior to the hearing.

2. Appearing by Telephone

Party(ies) may appear telephonically for their appointment at Family Court Services if they are 60 miles or more driving distance, in one direction, from the Family Court Services Office. Party(ies) shall contact Family Court Services by telephone at (707) 521-6800 no later than one day before the scheduled appointment to make arrangements to appear by telephone for the appointment.

3. Failure to Attend Recommending Counseling Appointments at Family Court Services

The court may impose a fine on a party who receives reasonable notice of the appointment and fails to appear. Inquiry may be made by the court on the reasons why one or all the parties missed their appointment. Fines as deemed appropriate by the judicial officer may be levied and collected by the Court Collections Division. A "Failure to Appear" report will be filed by Family Court Services prior to the imposition of any fine.

Failure to cancel or re-schedule an appointment at least 48 hours before the appointment may result in sanctions.

4. **Requests for Change of Recommending Counselor, or Complaints Regarding Recommending Counselors**

Any request for a change of recommending counselors or any complaints relating to general problems with recommending counseling must be received by the Office of the Court Executive Officer Family Court Services no later than thirty (30) calendar days after the recommending counseling session and should be addressed to the Court Executive Officer. Requests or complaints received after this time frame will not be considered. The request or the complaint should be in writing and should set forth the case name, case number, and the nature of the request for a change in recommending counselor, and should set forth all of the facts and circumstances with as much clarity and specificity as possible. ~~If the complaint or request for change in recommending counselor involves the Family Court Services Manager, the necessary information should be directed to the Assistant Court Executive Officer.~~ A response to the complaint will be issued in writing thirty (30) calendar days after the complaint is received by the court Department. The other party will be copied on the communication. Complaints or disagreements related to the content of the recommending counseling report should be addressed with the Court.

Complaints or disagreements related to the content of the recommending counseling report should be addressed with the Court.

5. **Contact with Family Court Services**

No party, attorney, or the court is permitted to have any ex parte contact with the assigned Family Court Services recommending counselor about the pending case. Communication with the Family Court Services staff shall be conducted by a mutually agreed upon conference between each party, or if represented, his or her attorney, and the recommending counselor. Family Court Services' staff other than the assigned recommending counselor may be contacted regarding scheduling and timing of the recommending counseling process.

Minor's counsel may contact Family Court Services pursuant to Family Code section 3151(c)5 to obtain and provide relevant information regarding the child(ren) they represent. However, Family Court Services is prohibited from contacting the minor's counsel pursuant to California Rule of Court 5.235.

Unsolicited communications (facsimiles, e-mails and correspondence via regular mail) are not permitted and will not be reviewed or considered.

B. Appointment of Child Custody Evaluators

1. Referral

In the event of a referral to a private psychological expert for a custody evaluation and report, the parties shall complete the Order Appointing Child Custody Evaluator (FL-327) and the court shall make an order regarding the payments of the costs of such evaluation at the time the evaluation is ordered.

2. Time Limits

Custody Evaluation Reports will be filed with the court within ninety (90) days of the date such investigation has commenced (120 days if one party resides outside the county). The "commencement date" for a report by a private psychological expert shall be when the parties have paid the required deposit/retainer and submitted any required paperwork.

Custody Evaluation Reports are confidential and shall be distributed to parties, attorneys, experts, and the Court. The report, or any portions thereof, shall not be shown or distributed to any other person or used or attached to any document filed with the Court, except as authorized by the Court. Upon a request by the evaluator or a party, the Court may make additional and/or more limited restrictions regarding the release and distribution of the report. The Court shall sanction unauthorized distribution or use of the report.

3. Requests for Change of Evaluator or Complaints Regarding Evaluators

i. Private Psychological Evaluators

An evaluator may only be disqualified or removed at the request of a party on grounds that are similar to the disqualification or removal of a judicial officer, referee or arbitrator (Code of Civil Procedure, section 170.1).

An evaluator may decline appointment. Once appointed, an evaluator may petition the court for withdrawal by submitting a letter to the court, with copies to counsel and/or self-represented parties. The letter shall state the reasons for the request for withdrawal. The court shall thereafter set a hearing to determine whether the request will be granted and if granted, to appoint a new evaluator.

A party with a grievance regarding an evaluator shall first meet with the evaluator to attempt to resolve the issue, if the evaluator is willing to meet. If the evaluator is not willing to meet, or if after meeting with the evaluator, the grievance is unresolved, complaints regarding an evaluator shall be directed to the Family Law judge or court commissioner who is, or has been hearing the case. The complaint shall be in writing and should set forth the case name, number and the nature of the complaint, including all the facts and circumstances with as much clarity and specificity as possible.

Appointment of Child Custody Evaluators

1. Referral

In the event of a referral to a private psychological expert for a custody evaluation and report, the parties shall complete the Order Appointing Child Custody Evaluator (FL-327) and the court shall make an order regarding the payments of the costs of such evaluation at the time the evaluation is ordered.

2. Time Limits

Custody Evaluation Reports will be filed with the court within ninety (90) days of the date such investigation has commenced (120 days if one party resides outside the county). The "commencement date" for a report by a private psychological expert shall be when the parties have paid the required deposit/retainer and submitted any required paperwork.

Custody Evaluation Reports are confidential and shall be distributed to parties, attorneys, experts, and the Court. The report, or any portions thereof, shall not be shown or distributed to any other person or used or attached to any document filed with the Court, except as authorized by the Court. Upon a request by the evaluator or a party, the Court may make additional and/or more limited restrictions regarding the release and distribution of the report. The Court shall sanction unauthorized distribution or use of the report.

3. Requests for Change of Evaluator or Complaints Regarding Evaluators

i. Private Psychological Evaluators

Each party shall be entitled to one peremptory challenge for the choice of evaluator. The challenge must be exercised at the time

of the hearing on the appointment of an evaluator unless the appointment is made by written order without a hearing, in which case the challenge must be exercised within thirty (30) days from the issuance of the order of appointment.

An evaluator may otherwise only be disqualified or removed at the request of a party on grounds that are similar to the disqualification or removal of a judicial officer, referee or arbitrator (Code of Civil Procedure, section 170.1).

An evaluator may decline appointment. Once appointed, an evaluator may petition the court for withdrawal by submitting a letter to the court, with copies to counsel and/or self-represented parties. The letter shall state the reasons for the request for withdrawal. The court shall thereafter set a hearing to determine whether the request will be granted and if granted, to appoint a new evaluator.

A party with a grievance regarding an evaluator shall first meet with the evaluator to attempt to resolve the issue, if the evaluator is willing to meet. If the evaluator is not willing to meet, or if after meeting with the evaluator, the grievance is unresolved, complaints regarding an evaluator shall be directed to the Family Law judge or court commissioner who is, or has been hearing the case. The complaint shall be in writing and should set forth the case name, number and the nature of the complaint, including all the facts and circumstances with as much clarity and specificity as possible.

4. Contact with Child Custody Evaluator

No party, attorney, or the court is permitted to have any ex parte contact with the assigned child custody evaluator about the pending case, except as directed by the child custody evaluator during the custody evaluation procedure.

D. Appointment of Parent Coordinator

- a. Parties may stipulate to the appointment of a Parent Coordinator Team.
- b. Parent Coordinators Team: If the parties stipulate to the appointment of a Parent Coordinator Team (hereafter "Team"), the parties or their attorneys, if represented by counsel, shall contact the proposed mental health and attorney members of the Team to obtain his/her consent to act as a Team. The Team may only be appointed by agreement of both parties and upon each Team member signing the Stipulation and Order Regarding Appointment of Parenting Coordinator FL-030 and the attorneys for the parties signing The

Role of the Client's Attorney document, Sonoma County Local Form FL-031. Any requested modifications to the provisions of the local forms must be approved by each Team member. A Stipulation and Order for Appointment of Parent Coordinator Team may only be submitted to the Court for approval and signature after obtaining the confirming signatures of the mental health and attorney members of the Team.

- c. If either party requests the appointment of a Parent Coordinator and there is no stipulation, that party may request the appointment of a Special Master.
- d. Attorneys and mental health professionals who want to be appointed as parent coordinators must complete the application for approval to serve as a parent coordinator (FL-037) and submit it to the Court.
- e. The Court shall maintain a list of approved parent coordinators who have satisfied the requirements set forth in the application.
- f. The Court shall annually contact the parent coordinators on the list and request a declarations from them stating their current education and licensing status.

E. Appointment of Minor's Counsel

1. Family Code section 3150 Appointments

- i. The Court may appoint counsel to represent a child in a custody proceeding. The Court shall require the parties to submit financial information, such as an Income and Expense Declaration, in order to consider whether the parties are able to pay the minor's counsel fees. The appointed attorney shall receive a reasonable sum for compensation and expenses. The court shall set the attorney's hourly rate taking into consideration the parties' financial circumstances. The rate may be up to the attorney's full hourly rate. The court shall apportion payment of the hourly rate between the parties depending on the parties' respective financial circumstances. The court may order the parties to submit updated financial information.

- ii. If the Court finds that the parties cannot afford to compensate the minor's counsel, appointed counsel shall be compensated at the rate established by the Superior Court of Sonoma County. Fees and expenses including, but not limited to, travel time, mileage to or from any location, tolls, photocopy charges, telephone or fax costs, secretarial or document

processing fees, postage, preparation of billing package, and court runner and messenger fees, shall not be reimbursed. Fees shall not be charged by the Court for the filings of appointed counsel. The Court shall make an order of appointment, which will include the rate of payment and an expiration date for the appointment. Minor's counsel, appointments will be reviewed annually, and the Court may require additional Income and Expense Declaration submissions by the parties to determine whether a change in circumstances has enabled the parties to pay future minor's counsel fees.

The appointed counsel shall submit invoices for payment on a quarterly basis. The court uses a fiscal year that operates from July 1st - June 30th. Request for payment by appointed counsel must be submitted within the fiscal year that the services were performed or the invoice will not be paid. The only exception is at the close of the fiscal year (June 30th), where the appointed counsel may submit an invoice for work performed in the last quarter of the fiscal year by July 31st of that calendar year.

When submitting an invoice to the court for reimbursement the appointed counsel must include: (1) the order indicating the appointment and the terms of compensation, (2) a declaration of the attorney and detailed invoice which clearly describes the services provided and the hours assigned to each service, and (3) a proposed order for payment.

All requests for payment are subject to judicial review. If the reviewing judge deems the charges excessive or not conforming to this rule, charges may be reduced or disallowed.

iii. Application for Appointment for Family Code section 3150

Appointments

- aa.** To apply to be on the court approved attorney appointment panel for Family Code section 3150 appointments, an attorney must file an application which includes a resume, and confirmation that they have met

the educational requirements with the family law supervising judge.

- bb.** The court will evaluate the application and notify the applicant within 30 days of the court's decision.
- cc.** The court will only appoint attorneys who are members of the court approved counsel panel.

iv. Annual Review

- aa.** Upon appointment of minor's counsel the court will set an annual review of the appointment of minor's counsel. This date will be approximately twelve 12 months after the first appearance of minor's counsel in the case.
- bb.** At the annual review, the court will determine whether the minor's counsel has satisfied his/her education requirements as set forth in CRC 5.242(c-e).
- cc.** The annual review will be scheduled in the order of appointment or at the child's counsel's first court appearance of the case.

v. Inter-Agency Exchange of Information

- aa.** This rule addresses the exchange of information between Family Court Services, Probation Department, Department of Human Services, Case Management Council, minors counsel and the Court Investigator in juvenile delinquency, juvenile dependency, child custody, conservatorship, guardianship, and criminal proceedings. The disclosure of information concerning

children and their parents by any of these agencies is generally prohibited by law. Nevertheless, a limited exchange of information about children or parents between these agencies in certain circumstances will serve the best interests of the child who is before the court. The court hereby finds that the best interests of children and victims appearing in court, the public interest in avoiding duplication of effort by the courts and by the investigative agencies serving the juvenile and family courts and the value of having relevant information gathered by a court agency outweighs the confidentiality interests reflected in Penal Code sections 11167 and 11167.5 and W&I sections 827 and 0850 et seq., Family Code section 1818, and Probate Code section 1513, and therefore good cause exists for this rule.

- bb.** The representatives of the above-listed agencies who are investigating or supervising cases involving children may orally disclose information to each other as follows:

Whether the child before the court, his/her parents, guardians, or caretakers are or have been the subject of a child custody, delinquency, dependency criminal or probate investigation, the findings and status of that investigation the recommendations made or anticipated to be made to the court by the agencies listed above, and the progress while under court supervision including compliance with court orders, and any court orders in existence with respect to the child, parents, guardians, or caretakers.

Any statement made by the child or the child's parents, guardians, or caretakers which might bear upon the issue of the child's best interests in the pending case.

Each agency may include this information in court reports and keep such information in their case files.

All of the above listed agencies may provide written documents to each other. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and court reports containing information described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code section 11167.5 (Suspected Child Abuse Report form #S-8572), information disclosing the identity of a reporting party, or court-ordered psychological evaluations will not be exchanged between the agencies absent a court order. Copies of HSD or Juvenile Probation Department documents used by the above-listed agencies will not be made available to the public without a court order.

- cc. Any disclosure authorized by this rule shall be subject to the following conditions: The agency receiving the request shall first establish to its satisfaction that the inquiring party is in fact a member of an agency designated above; all information shall be provided orally; if an agency desires written documentation, it shall make written application for a court order releasing that documentation; the information gathered shall be used exclusively in the investigation being conducted and the subsequent court proceedings, and shall not be repeated to anyone not a party to those proceedings without court order.
- dd. Nothing in this rule is intended to limit any disclosure of information by any agency which is otherwise required or permitted by law or by other court orders.
- ee. The release of information by Family Court Services is subject to limitations imposed by state and local rules.

vi. **Relieving Minor's Counsel of Appointment**

The court, in its discretion, will consider relieving minor's counsel of appointment under the following circumstances:

- aa.** At the time of a final order or judgment has been filed, or 90 days thereafter, or;
- bb.** A motion filed by any party for good cause; or
- cc.** A motion to be relieved filed by the minor's counsel if the minor's counsel does not believe that he or she can effectively represent the child; or
- dd.** At the annual review.
- ee.** Minor's counsel will not be relieved if the court, upon a showing of good cause, deems it necessary to extend the appointment, or if the court requests periodic review or monitoring of the child related issues before the court. At any hearing where the Court is considering relieving minor's counsel, the Court will address the issues of reimbursement of fees paid to minor's counsel by the Superior Court. All parties must file current income and Expense Declarations at the hearing.

vii. Grievance

A party or counsel who wishes to lodge a complaint regarding the performance of a minor's counsel appointed by the court must do so in writing and serve the original of the complaint on the minor's counsel no later than 20 days after the event giving rise to the complaint or within 20 days of receiving any written report of the minor's counsel.

No later than 10 court days after the receipt of the complaint, the minor's counsel must serve the complainant with a written response to the complaint. Without conceding the accuracy of the contents of the complaint, minor's counsel may ask the court to relieve him or her of the appointment and, if appropriate, appoint a new minor's counsel.

If the response served by the minor's counsel does not resolve the complaint, the complainant must serve a copy of the complaint and the response of the minor's counsel, if any, on the supervising family law judge whose decision concerning the complaint, which may include removing the minor's counsel from the panel of minor's counsel used by the court, will be final. The decision by the supervising judge must be served on the complainant and minor's counsel within 15 court days of receipt.

- viii. Minors counsel may contact Family Court Services pursuant to Family Code section 3151(c)5 to obtain and provide relevant information regarding the child(ren) they represent. However, Family Court Services is prohibited from contacting the minors counsel pursuant to California Rule of Court 5.235.
- ix. All other aspects of Family Code Section 3150 appointments are governed by California Rules of Court 5.240 - 5.242.

2. Family Code section 7860 Appointments

The court may appoint counsel to represent a child or parent in a freedom from parental custody and control proceeding. The appointed attorney shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the child, in proportions the court deems just.

If the court finds that the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

All requests for payment are subject to judicial review. If the charges are deemed excessive by the reviewing judge, charges may be reduced or disallowed.

(Eff. 7/1/13, rev. 7/1/14) (renumbered 1/1/2016; 1/1/2018; 7/1/19)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Address, Telephone Number, and State Bar membership number): ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA PLAINTIFF(S)/PETITIONER(S): DEFENDANT(S)/RESPONDENT(S): OTHER PARENT:	COURT USE ONLY Case Number: FCS Date: Hearing Date:
NOTICE OF STIPULATED CONTINUANCE (FAMILY LAW)	

The parties agree to continue the following dates:

Family Court Services From: _____ To: _____ Time: _____ a.m./p.m.

(Must confirm FCS date and attach Local Form FL017)

Hearing From: _____ To: _____ Time: _____ a.m./p.m. Dept: _____

Settlement Conference From: _____ To: _____ Time: _____ a.m./p.m.

The issues to be continued are: _____

We have continued this matter _____ time(s) previously. We understand that the Court will allow no more than two (2) stipulated continuances and the issues must be resolved within four (4) months from the original hearing date, absent good cause.

If two (2) continuances have already been granted, state your good cause and/or emergency here or in an attachment:

We acknowledge we have considered participation in a settlement conference. We have met and conferred on the issue(s) on the following date(s): _____

DATE: _____

 Moving Party or Attorney:

DATE: _____

 Responding Party or Attorney:

DATE: _____

 Minor's Attorney

DATE: _____

 Department of Child Support Services (if in the case)

Superior Court of California, County of Sonoma Civil and Family Law Courthouse 3055 Cleveland Avenue Santa Rosa, CA 95403 Telephone: (707) 521-6500	
Petitioner: Respondent: Other Party:	
SETTING ORDER	Case No. _____

Parties/attorneys are ordered to appear as follows:

☐ **Case Resolution Conference:** Date: _____ Time: _____ Dept.: _____
 Each party must file a Case Resolution Conference Statement (FL-092) ☐ 10 days prior to Conference OR ☐ by _____

☐ **Compliance Hearing regarding** _____:
 Date: _____ Time: _____ Dept.: _____

☐ **Settlement Conference** ☐ **Judicial:**
 Date: _____ Time: _____ Dept.: _____

Appear and check in at 3055 Cleveland Avenue, 2nd Floor, Judges' Chambers Office

File: ☐ Statement of Issues for Settlement Conference or Trial (FL-002 or FL-048) ☐ 10 days prior to Conference OR ☐ by _____

☐ **Master Calendar Call:** Date: _____ Time: _____ Dept.: _____

☐ **Court Trial:** Date: _____ Time: _____ Dept.: _____

Time estimate: _____ Issues: _____

File: ☐ Statement of Issues for Settlement Conference or Trial (FL-002 or FL-048)
☐ Trial Briefs ☐ Motions in Limine ☐ Witness Exchange
☐ 10 days prior to trial OR ☐ By: _____

☐ **OTHER ORDERS:**

Dated: _____

 Judicial Officer

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, Address, Telephone Number, and State Bar membership number): ATTORNEY FOR (Name): SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA	COURT USE ONLY Case Number:
IN THE MATTER OF:	
NOTICE OF STIPULATED CONTINUANCE (PROBATE)	

The parties agree to continue the following dates

[Name of pending petition/application for relief]

Trial: _____ From: _____ To: _____

Probate Hearing: From: _____ To: _____

Case Management Conference: Date: _____ Time: _____ Dept.: _____ (Set by Court Clerk)

We have stipulated to continue this matter _____ time(s) previously. We understand that the Court will allow no more than two (2) stipulated continuances per pending petition or application for relief and the issues must be resolved within six (6) months from the original hearing date, absent good cause.

If two (2) continuances have already been granted, do not use this form. ~~state your good cause and/or emergency here or in an attachment:~~

~~We acknowledge we have considered participation in a settlement conference. We have met and conferred on the issue(s) on the following date(s):~~ _____

Based on calendar availability, the continued hearing is set for:

[To be set by Court Clerk] Date: _____ Time: _____ Dept.: _____

DATE: _____

☐ Pro Per or ☐ Attorney for: _____

DATE: _____

☐ Pro Per or ☐ Attorney for: _____

DATE: _____

☐ Pro Per or ☐ Attorney for: _____

DATE: _____

☐ Pro Per or ☐ Attorney for: _____

☐ Continued on attachment